HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No. 6070 of 2007

PETITIONER Shyam Kartik Gupta S/o Shrichand Gupta, Aged about 43 years, Lab Assistant, Govt. Higher Secondary School, Pali, Block – Pali, Distt. – Korba (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through: Under Secretary Tribal Welfare Department D.K.S. Bhawan, Raipur, Dist: Raipur Chhattisgarh
2. The Commissioner, Tribal Welfare Department, Chhattisgarh Government Raipur
3. Assistant Commissioner, Tribal Welfare Department, Distt : Korba (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUION OF INDIA

Appearance:

Shri Anil Singh Rajput, counsel for the petitioner.

Ms. Sunita Jain, Panel Lawyer for the State on advance copy.

ORAL ORDER

(10.10.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working on the post of Lab Assistant in Govt. Higher Secondary School , Pali, District Korba has been transferred from the said place to the office of Block Education Officer Wadruf Nagar, District Sarguja by order dated 7.7.2007 (Annexure-P/1). Earlier to this petition, the petitioner has challenged this order by filing a Writ Petition (S) No. 4760/2007, which was disposed of on 17.8.2007 permitting to withdraw the petition on the ground that the representation of the petitioner was pending with the concerned authority.

Learned counsel for the petitioner argues that thereafter a fresh representation was filed on 24.8.2007 (Annexure-P/4) but the said representation has not been decided and the petitioner has been relieved and a time for joining upto 11.10.2007 has been given to the petitioner. This time, he is pressing this petition on

merits. His submission is that the petitioner should not have been transferred out of District and according to circular dated 13th June, 2007, the transfer of the petitioner should have been affected within the District by the concerned Collector. He shows me the policy dated 13.6.2007.

I have considered the argument advanced by the learned counsel for the petitioner. Learned counsel for the petitioner could not show me any provisions, which may prohibit the transfer of the employee like petitioner out of District.

So far as the provisions of policy dated 13.6.2007 is concerned, it only says that when the transfer of Class-III & IV employees are affected within District, the orders can be passed by the Collector and nothing more. This does not mean that for the transfer affected out of District, the order cannot be passed by the competent authority. The argument advanced by learned counsel for the petitioner is totally misconceived, which cannot be accepted.

The transfer is an exigency of service and nobody posted/working on a transferable post can claim for his posting at a particular place. It is for the employer to see as to who should be posted at which place. Unless the order of transfer is shown to be vitiated by malafides or passed on extraneous considerations or it is issued against any statutory Rule or Act, it cannot be interfered by a Court of law, is the settled view of the Apex Court.

Learned counsel for the petitioner could not point out any ground of malafides or extraneous considerations or order of transfer being against any statutory Rule or Act.

The petition has no merit, the same is liable to be dismissed and is accordingly dismissed.

Sd/-
Sunil Kumar Sinha
Judge

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